

..TITLE

Discussion regarding establishment of a Board of Adjustment.

..ABSTRACT

Action Requested:

Discuss establishment of a Board of Adjustment and provide direction to staff.

Introduction & Background:

The Board held a public hearing on January 20, 2015 to consider amendments to the Zoning Ordinance to incorporate legislative changes to the Board of Adjustment provisions in Section 18. The text amendments are still in the review process and the purpose of this item is to outline the necessary steps to establish a Board of Adjustment (BOA).

Discussion & Analysis:

Currently, the Board of Commissioners (BOC) serves as the BOA and has expressed interest in establishing a separate board. In addition to hearing appeals and variance requests from the Zoning Ordinance, the BOA also receives appeals and variances from several of the other land use regulations, such as the Lighting and Wireless Telecommunications Tower Ordinances. This is important because the BOA will be tasked with considering appeals and variances from regulations that currently apply in the unzoned areas of the county.

Planning staff met with the County Attorney and discussed a number of logistical issues related to establishment of a separate BOA and compliance with legislative changes to NCGS §160A-388 and 153A-345.. The administrative issues were addressed by staff and will not require any significant changes to current operating procedures. Additionally, the County Attorney can provide training for the BOA and assist them in developing Rules of Procedure. However, there are several items the BOC needs to provide direction to staff.

First, the BOC needs to establish the number of members and alternates to serve on the BOA. The amended general statute now provides that "If a board of county commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall, if practicable, have at least one resident as a member of the board of adjustment; otherwise, the provisions of G.S. 153A-25 regarding qualifications for appointive office shall apply to the board of adjustment appointments." G.S. 153A-25 reads "The board of commissioners may fix qualifications for any appointive office, including a requirement that a person serving in such an office reside within the county. The board may not waive qualifications fixed by law for an appointive office but may fix additional qualifications for that office." Since the county is partially zoned (see attached map with Commissioner Districts), the board will need to determine how to select candidates to serve on the BOA. The general statute provides that a BOA consist of five or more members serving for three years. The Board will need to balance the representation between zoned and unzoned areas of the county in considering how to appoint members. The Board could have appointments from Commissioner Districts and at-large members to address this balance.

Second, the board will need to decide if BOA membership will be limited to residents within areas under the county's land use regulations or include residents within

municipalities and extraterritorial jurisdictions (etjs). Municipalities have separate BOA's that include representatives of their respective etjs.

Third, the board will need to consider whether to stagger the term of the initial appointments to the BOA and also whether to limit the number of terms someone can serve. Staggering terms can provide for a smoother transition as membership changes.

Recommendation:

Provide direction on the following questions:

- How many members and alternates will serve on the Board of Adjustment, including representation for unzoned areas?
- Will membership on the BOA include municipal and etj residents?
- Will the terms of the initial appointments be staggered and will term limits be established?
- Do you want to issue a press release requesting applicants to serve on the Board of Adjustment?